

Information on Washington's Tax Structure

Fish Taxes

November 2002

COMMERCIAL FISH TAX

This fact sheet describes the application of Washington taxes to persons engaged in commercial fishing operations. It applies to commercial "deep sea" fishing outside the territorial waters of the state, and to commercial fishing within the three-mile limit.

This fact sheet does not apply to sport fishing or the operation of charter boats for sport fishing, or to persons who fish solely for their own consumption. Nor does it apply to persons cultivating or raising fish entirely within confined rearing areas.

Indian Treaty Fishing Rights. The gross income directly derived from treaty fishing rights related activity is not subject to state tax. This exclusion from tax is limited to those businesses wholly owned and operated by Indians/tribes who have treaty fishing rights. If a business wholly owned and operated by Indians/tribe deals with both treaty and non-treaty fish, this exclusion from tax is limited to the business attributable to the treaty fish.

Business and Occupation Tax

Commercial fishers are required to register with the Department of Revenue and account for the business and occupation (B&O) tax.

Those who catch fish in Washington waters are subject to B&O tax under the Extracting classification at the rate of .484 percent. The amount of tax due is calculated by multiplying this rate times the value of the fish, which is usually the selling price.

Those catching fish outside of Washington waters but selling their catch within Washington are subject to either the **Wholesaling** B&O tax at the rate of .484 percent, or the **Retailing** B&O tax at the rate of .00471 percent, unless the fish are sold in interstate or foreign commerce. The amount of tax due is calculated by multiplying the appropriate rate times the selling price of the fish.

(The Wholesaling B&O tax applies to sales for resale; the Retailing B&O tax applies to sales to the final consumer.)

Those who catch fish in Washington waters **and** sell them within Washington, other than in interstate or foreign commerce, are liable for **both** the Extracting B&O tax **and** the Wholesaling or Retailing B&O tax. However, they are entitled to the Multiple Activities Tax Credit (MATC). The MATC allows the commercial fisher to take a credit against the Extracting B&O tax in an amount equal to the Wholesaling or Retailing B&O tax due on the selling activity. The effect of

the MATC is to eliminate a double tax on a person who both catches and sells fish in Washington.

If you are not registered with the Department of Revenue and should be, you must complete a Master Business Application (MBA). These forms are available at your local department of Revenue, Labor and Industries, Licensing or Employment Security offices.

Enhanced Food Fish Tax

In addition to the B&O tax, commercial fishers may be liable for the excise tax on enhanced food fish. The tax applies to the first possession of enhanced food fish by an owner in Washington.

Indian Treaty Food Fish. Transactions involving treaty food fish are not subject to the enhanced food fish tax, regardless of where the transaction takes place.

The term "enhanced food fish" includes the following:

- Species of food fish, shellfish, and anadromous game fish (those which go upriver to spawn), including byproducts and parts thereof, caught in Washington territorial and adjacent waters.
- Salmon caught in the territorial and adjacent waters of Oregon, Washington, and British Columbia.
- Troll-caught Chinook salmon caught in territorial and adjacent waters of southeast Alaska.

The fish tax is based on the value of the enhanced food fish at the point of landing. The fish are "landed" when they are placed on a tender in the territorial waters of Washington, or when they are brought to land, which includes wharves, piers, or other such extensions.

The rate of the tax depends upon the species of fish or shellfish. For example, Chinook salmon are taxed at the rate of .0562, while oysters are taxed at the rate of .0009.

The fish tax is usually paid by the licensed dealer to whom the enhanced food fish are sold, rather than by the commercial fisher. However, the commercial fisher is directly responsible for the tax, if the buyer is someone other than a dealer licensed by the Department of Fisheries.

Even when the fish are sold to a licensed dealer, the commercial fisher may bear some of the economic burden of the fish tax. A dealer is entitled to deduct an amount equal to half of the fish tax from the price paid to the commercial fisher for enhanced food fish. Tuna, mackerel, and jack fish are exempt from the fish tax. Shellfish raised from eggs or larvae, and under the physical control of the grower until harvested or sold, are also exempt from the fish tax.

Credit. A credit is allowed against the amount of enhanced food fish tax owed for any tax previously paid on the same food fish to any legally established taxing authority, including Indian tribes.

If you have questions about the fish tax, please call (360) 902-7084

Retail Sales and Use Tax

Commercial fishers must pay retail sales or use tax on all non-exempt equipment and supplies used to conduct their business activity.

There are retail sales and use tax exemptions for sales of, or repairs to watercraft and component parts that are primarily used in commercial deep sea fishing operations outside the territorial waters of the State of Washington. This exemption is not available for watercraft and component parts used for kelping, purse seining, or gill netting, because such fishing methods can only be performed in Washington waters (the three-mile limit).

Persons regularly engaged in commercial deep sea fishing operations are also entitled to a sales and use tax exemption for diesel fuel used in the operation of watercraft. To be "regularly engaged" in commercial fishing operations and to qualify for these exemptions, a person must earn at least \$5,000 per year at this activity. (Persons who engage in commercial deep sea fishing and who also charter boats for sport fishing outside the territorial waters of the state may combine their income from both activities in order to meet the \$5,000 threshold.)

Personal Property Tax or Watercraft Excise Tax?

Vessels used exclusively for commercial fishing activities are subject to personal property tax. These boats are listed with and assessed by the Department of Revenue. The Department of Revenue is responsible for collecting the tax.

To list your boat, or if you have questions about the personal property tax, contact the Department of Revenue, Special Programs Division, Post Office Box 47477, Olympia, Washington 98504-7477 or telephone: (360) 753-1520.

Boats used part time for commercial fishing activities are subject to the Watercraft Excise Tax. The watercraft Excise Tax is administered by the Department of Licensing. If you have questions about this excise tax, you may contact the Department of Licensing, Vehicle Vessel Division, Post Office Box 9909, Olympia, Washington 98507-8500, telephone: (360) 902-3725, option #5.

For More Information

The Department of Revenue has two administrative rules that pertain to commercial fishers. Washington Administrative Code (WAC) section 458-20-135 deals with extracting natural

products. WAC 458-20-176 discusses commercial deep-sea fishing. The department will, upon request, provide copies of these rules.